

AN ORDINANCE AMENDING TITLE II, CHAPTER 215, ARTICLE II OF THE CREVE COEUR CITY CODE REGARDING SMOKING IN PUBLIC PLACES.

WHEREAS, the City Council has previously encouraged State and County officials to adopt broad regulations regarding smoke-free public places; and

WHEREAS, the voters of St. Louis County have approved certain such regulations which will take effect on January 2, 2011, which regulations allow certain exemptions such as for portions of nursing homes and long-term care facilities, certain performances, tobacco-oriented businesses, and certain preexisting bars and other drinking establishments; and

WHEREAS, the City Council desires to promote the health, safety and welfare of citizens of the City by decreasing exposure to secondhand smoke to an even greater degree than such County regulations, including by not allowing such exemptions for nursing homes, performances, tobacco-oriented businesses, and drinking establishments, and

WHEREAS, the City Council desires to ensure smoke-free environments for workers, patrons and visitors within enclosed places of employment and other enclosed public places within the City, and

WHEREAS, the City Council has accordingly determined that it is necessary and proper to revise Title II, Chapter 215, Article II of the City Code of Ordinances, regarding smoking in public places; and

WHEREAS, a copy of this ordinance has been made available for public inspection prior to its adoption by the City Council and this bill has been read by title in open meeting two times before final passage,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CREVE COEUR, MISSOURI, AS FOLLOWS:

SECTION 1. Title II, Chapter 215, Article II of the City Code of Ordinances is hereby amended, to read as follows:

ARTICLE II. SMOKING IN PUBLIC PLACES

SECTION 215.080: DEFINITIONS

As used in this Article, the following words shall have the meanings indicated:

BUSINESS. A sole proprietorship, partnership, joint venture, corporation, or other business entity, either for-profit or not-for-profit, including retail establishments where

goods or services are sold; professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered, and private clubs.

EMPLOYEE. Any person who performs services for an employer, with or without compensation.

EMPLOYER. A person, partnership, association, corporation, trust or other organized group of individuals, including the City or other governmental body or any agency thereof, which utilizes the services of at least one employee.

ENCLOSED AREA. Any indoor space and any space bound by walls (with or without windows or doors) or similar partitions on at least three sides that effectively divide space from the floor to ceiling, including, but not limited to offices, rooms, all space therein screened by partitions which do not extend to the ceiling or are not solid, "office landscaping" or similar structures and hallways, designed for human occupancy in which people congregate including for amusement, entertainment, eating, drinking, education, labor, or similar purposes, including but not limited to bars and restaurants.

PERMANENTLY DESIGNATED SMOKING ROOM. A hotel or motel room that may be designated as a smoking room, with such designation being changeable only one time per calendar year.

PLACE OF EMPLOYMENT. Any enclosed area under the control of a public or private employer which employees normally frequent during the course of employment, including, but not limited to work areas, employee lounges and restrooms, conference rooms and classrooms, employee cafeterias and hallways. A private residence is not a "place of employment" unless it is used as a childcare, adult day care or health care facility.

PRIVATE CLUB. A not-for-profit organization incorporated or chartered by law for fraternal or social purposes, which has a defined membership and restricts admission to members of the club and their guests. Private club shall not include an establishment that is generally open to members of the general public upon payment of a fee or that has employees and meets the definition of place of employment. A private club shall not be considered a "public place" except when it is the site of a meeting, event or activity that is open to the public. A private club shall not be considered a "place of employment" by reason of the occasional use of independent contractors, such as caterers, that have their own employees, in the club's enclosed areas.

PUBLIC MEETING: A gathering in person of members of a governmental body, whether in open or closed session, as defined in Chapter 610, RSMo.

PUBLIC PLACE: Any enclosed area or service line to which the public is invited or in which the public is permitted. A private residence is not a “public place” unless it is used as a childcare, adult day care, or health care facility. Outdoor areas are not “public places” as defined herein, other than service lines.

SERVICE LINE. Any indoor or outdoor line at which one (1) or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money. A service line is a public place. People waiting inside their cars, such as in a drive-thru line, shall not be considered to be in a “service line” as defined herein.

SMOKING: Inhaling, exhaling, burning or carrying any ignited, lighted or heated cigarette, cigar, pipe or other smoking product, equipment or apparatus, involving tobacco or other plant material or nicotine in any form.

SECTION 215.090: PROHIBITION OF SMOKING IN PLACES OF EMPLOYMENT AND PUBLIC PLACES.

- A. No person shall engage in smoking in any place of employment or any vehicle owned by the City of Creve Coeur.
- B. No person shall engage in smoking in a public place or in a public meeting.
- C. No person shall engage in smoking on any sidewalk, driveway or other open area within 15 feet of the entry to any place of employment, public place, or public meeting, provided that this prohibition shall not apply within any outside dining area where smoking is permitted by the proprietor.
- D. No person shall dispose of smoking waste or place or maintain a receptacle for smoking waste in any area in which smoking is prohibited under this Article.
- E. *Exceptions.* Notwithstanding any other provision of this Article to the contrary, the following shall not be subject to the smoking restrictions of this Article:
 - a. Private residences, not serving as places of employment or public places, and private vehicles;
 - b. Private clubs except for any such club which was not already open to its members within the City prior to January 1, 2011 which is also a place of employment and except for any such club regardless of when first open to members within the City when it is the site of a meeting, event or activity that is open to the public;

c. Permanently designated smoking rooms, not to exceed twenty percent of the guest rooms of the hotel or motel;

SECTION 215.100: RESPONSIBILITIES OF PROPRIETORS, OWNERS AND MANAGERS

1. It shall be unlawful for any person, proprietor, owner, manager or person having control of a place knowingly to permit, cause, suffer or allow any other person to violate the provisions of this Article. It shall be an affirmative defense to an alleged violation of this section that the person having control of a place has asked the other person to comply with this Article and caused the person to leave the establishment if that person has failed or refused to comply (including by enlisting the assistance of law enforcement personnel if required).

2. A proprietor, owner, manager or person having control of a place shall clearly and conspicuously post "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) near all entrances to a place where smoking is prohibited pursuant to this Article. Such signage shall consist of letters not less than one inch in height.

3. It shall be the responsibility of employers to provide smoke-free places of employment for all employees.

SECTION 215.110: DECLARATION OF ESTABLISHMENT AS NONSMOKING.

A. Notwithstanding any other provision of this Article, an owner, operator, manager, or other person in control of an establishment, facility, or outdoor area may declare that entire establishment, facility, or outdoor area as a nonsmoking place. No person shall smoke in places so declared and posted with signs pursuant to Section 215.100.

B. Nothing in this Article shall be construed or applied in such a manner as to interfere with or prohibit a property owner, business operator or public entity from more broadly prohibiting smoking on or about their property or from prohibiting smoking in areas, at times, or under conditions which do not fall within the prohibitions established by this Article.

AMENDED BILL NO. 5270

ORDINANCE NO. 5158

SECTION 215.120: ENFORCEMENT

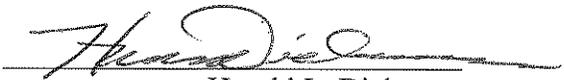
The authority to administer and enforce the provisions of this Article is vested with the Chief of Police and his/her duly authorized representative(s) except in the case of City-owned facilities wherein the City Administrator shall have the authority to administer and enforce the provisions of this Article.

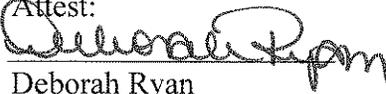
SECTION 2. This Ordinance shall become effective on January 2, 2011 pursuant to the provisions of Section 3.11(g) of the Charter. Each and every part, section and subsection of this Ordinance shall be separate and severable from each and every other part, section and subsection hereof. In the event that any part of this Ordinance shall be determined to be unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect.

ADOPTED BY THE CITY COUNCIL THIS 8th DAY OF November, 2010.


A.J. Wang, President
City Council

APPROVED THIS 8th DAY OF November 2010.


Harold L. Dielmann
Mayor

Attest:

Deborah Ryan
City Clerk

